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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,754	01/22/2004	Behrouz Poustchi	3655/0275PUS2	5581
47827	7590	04/02/2009		
MG-IP Law, PLLC PO BOX 1364 FAIRFAX, VA 22038-1364			EXAMINER GAUTHIER, GERALD	
			ART UNIT	PAPER NUMBER
			2614	
			MAIL DATE	DELIVERY MODE
			04/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/762,754	POUSTCHI ET AL.	
	Examiner	Art Unit	
	Gerald Gauthier	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-38 and 42-57 is/are rejected.
- 7) ☒ Claim(s) 9-11 and 39-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 32-54 are rejected under 35 U.S.C. 101 because the claimed invention as not falling within one of the four statutory categories of invention, .is directed to non-statutory subject matter. "An article of manufacture" is a non-statutory limitation and is not patentable.

Claims **55-57** are rejected under 35 U.S.C. 101 because as method claims they are running with the article manufacture claims above.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 1-8, 12-38 and 42-57** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US 6,161,134) in view of Rogers et al. (US 5,617,471).

Regarding **claims 1, 31 and 55**, Wang discloses a network device adapted to process a call between the network device and a first other network device (column 1, lines 7-11), the network device comprising:

a user interface adapted to receive a user input requesting a call transfer to a second other network device [The inputting is accomplished through the user interface 220. The portable computer 320 displays a telephone number entry field in which the user inputs the values, column 14, lines 9-16]; and

a call transfer function responsive to the user input to deliver call transfer functionality by; upon receipt of the user input [The user transfers a call from the first

network connected device to a second network connected device. The transferring includes the user inputting a second number into the portable computer 320 corresponding to the second network connected device, column 14, lines 41-54]:

initiating a connection from the network device to the second other network device [The portable computer 320 then transforms into input data formatted according to a data link layer protocol 328. The data link layer protocol 328 encapsulates frames formatted according to an application layer protocol. The application layer protocol is adapted for telephony functions. The portable computer 320 transmits the input data to the telephone 240, column 14, lines 41-54].

Wang fails to disclose sending a first message in the call transfer function.

However, Rogers teaches sending a first message to the first other network device containing a reference to the second other network device [User-A 2 initiates the call transfer by notifying switch-A 6 of the transfer request. Both independent calls, i.e., call legs A-B 3 and A-C 5, are identified as part of the transfer. Switch-A 6 sends a request message 9 to NCS 20 requesting the set-up of communication between user-B 8 and user-C 14, column 3, lines 38-46].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Wang using the call transfer function as taught by Rogers.

This modification of the invention enables the system to send a request message because the system would be able to determine whether the call transfer is allowed.

Regarding **claims 2, 15, 23, 28, 33, 45, 49 and 53**, Wang discloses a network device wherein the call transfer function is further adapted to, upon receipt of the input: send a second message to the first other network device to place the call on hold (column 15, lines 6-31).

Regarding **claims 3, 16, 24 and 29**, Wang discloses a network device comprising a call processing module adapted to process the call, the call processing module comprising the call transfer function (column 15, lines 6-31).

Regarding **claims 4, 17, 25, 30, 34 and 52**, Wang discloses a network device wherein the first message contains a reference to the connection (column 14, lines 55-66).

Regarding **claims 5, 18, 26, 31 and 35**, Wang discloses a network device wherein the call transfer function is adapted to send the second message after a user at the network device hangs up or presses a transfer key (column 15, lines 6-31).

Regarding **claims 6, 19, 36 and 46**, Wang discloses a network device wherein the call processing module is adapted to terminate the call upon receiving a message from the first other network device, which represents that the first other network device has established a media path with the second other network device (column 15, lines 32-50).

Regarding **claims 7, 20, 37 and 47**, Wang discloses a network device wherein the call processing module is adapted to send the first message before or after a media path is established with the second other network device (column 15, lines 51-62).

Regarding **claims 8, 21, 38 and 48**, Wang discloses a network device wherein the first message is sent upon receipt of a response from the second other network device and wherein upon receipt of the response from the second network device, and prior to sending the first message to the first other network device containing a reference to the connection, the call processing module is adapted to establish a media path between the network device and the second other network device (column 15, lines 6-31).

Regarding **claims 12 and 42**, Wang discloses a network device wherein the network device is one of a telephone, a video phone, a PDA, a soft phone, a wireless device, a wireless telephone, and a cell phone (column 15, lines 6-31).

Regarding **claims 13, 43, 50 and 54**, Wang discloses a network device wherein the network device is a VoIP telephone (column 15, lines 6-31).

Regarding **claims 14, 44 and 56**, Wang in combination with Rogers disclose all the limitations of claims 14, 44 and 56 as stated in claim 1's rejection above.

Regarding **claims 22, 51 and 57**, Wang in combination with Rogers disclose all the limitations of claims 22, 51 and 57 as stated in claim 1's rejection above.

Regarding **claim 27**, Wang in combination with Rogers disclose all the limitations of claim 27 as stated in claim 1's rejection above.

Furthermore Wang discloses a plurality network device on the network [Placing the conference call includes the user starting a conferencing program and the user inputting values to the portable computer 320. The values correspond to a plurality of conference participant network connected devices, column 14, lines 16-31].

Allowable Subject Matter

4. **Claims 9-11, 39-41** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed on January 02, 2009 have been fully considered but they are not persuasive. The applicant argues on remark page 2, paragraph 3 that claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of

Rogers. Claim 1 recites a network device adapted to process a call between the network device and a first other network device. The network device comprises a user interface adapted to receive a user input requesting a call transfer to a second other network device and a call transfer function responsive to the user input to deliver call transfer functionality. Upon receipt of the user input, the call transfer functionality of the network device a) initiates a connection from the network device to the second other network device and b) sends a first message to the first other network device containing a reference to the second other network device. As acknowledged in the Office Action, Wang does not show or suggest a network device having a call transfer function responsive to user input by ... sending a first message to a first other network device containing a reference to the second other network device. However, the Office Action asserts that it would have been obvious to modify Wang to satisfy this limitation based on the teachings of Rogers.

Rogers teaches a telecommunications system that controls a call transfer using a central network control system (NCS). When Roger's user-A is connected to user-B and to user-C, user-A can initiate a call transfer in order to connect user-B and user-C. This is done by sending "a request message 9 to NCS 20 requesting the set-up of communication between user-B 8 and user-C 14. A processor 24 accesses a database 22, located in NCS 20, to determine whether the requested transfer is allowed. NCS 20 then returns a response message 11 to switch A 6 responding to the request message 9 (column 3, lines 42-46)."

The interpretation of Rogers being used in the Office Action seems to require that Rogers' user-A correspond to the claimed "network device," that Rogers' user-B correspond to the "first other network device" and Rogers' user-C correspond to the claimed "second other network device." (If this is inaccurate, it is respectfully requested that the examiner clarify the interpretation being used in a further communication.) However, Rogers' user-A does not send a message to user-B containing a reference to user-C as would be required under this interpretation. Instead, Rogers' user-A sends a message to the network control system 20, and the network control system connects user-B to user-C. Therefore, even if Wang and Rogers were somehow combined, the result would not be a network device that includes a call transfer function that sends a first message to a first other network device containing a reference to the second other network device as recited in claim 1.

The examiner respectfully disagrees.

The examiner interprets the various user device as network devices and the call transfer as a first message to other network device containing a reference to a second network device.

Therefore, the rejection is maintained and it is a final rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

GG
April 2, 2009